IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 112 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MAHENDRASINH KESRISINH RATHWA

Versus

STATE OF GUJARAT

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Appearance:

THROUGH JAIL for Petitioner

MS HANSA PUNANI, AGP for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/02/2000

ORAL JUDGEMENT

#. The furlough leave is not granted to the petitioner by the authority concerned on the ground that nobody is prepared to be a surety. Two furlough leaves have already become due but only for this reason the same are

not granted. In the application the petitioner has cited the case of Natia Jiria Vs. State of Gujarat and Ors. 1984 GLH 594 and the order dated 10/8/98 in Special Criminal Application No.14160/98 and contended that if nobody is there to be surety, the prisoner can be released on furlough leave by the competent authority considering his good jail-record.

#. This aspect of the matter needs to be considered. From the order of the respondent I find that the Police Officer, Baroda has not recommended for grant of furlough leave to the petitioner as there may be breach of peace. It is nothing but only as if police officer's exercise veto powers in this matter. Even the report of the police officer is not there on the record. From the report of the Deputy Superintendent, Vadodara Central Jail, I find that the police authority opined that nobody is ready to become the surety of the petitioner. Be that as it may, this matter needs to be considered afresh by the competent authority. From the statement of the Deputy Superintendent, Vadodara Central Jail I find that the only ground has been given for rejection of the application that nobody is prepared to be a surety and there being no police recommendation. So there are contradictions amongst the officer on this factual aspect.

#. In the result, this Special Criminal Application is disposed of in the term that the competent authority is directed to consider the matter afresh in the light of the judgment on which reliance has been placed by the petitioner. The competent authority is further directed to decide the matter within a period of one month from the date of the receipt of the writ of this order or certified copy thereof, whichever is earlier. In case, the application of the petitioner for furlough leave is not granted, a reasoned order be passed and copy of the same be sent to the petitioner. Liberty is granted to the petitioner for revival of the Special Criminal Application, in case of any difficulty.

The Special Criminal Application and Rule stand disposed of accordingly.

(S.K.Keshote, J.)

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